

REMARKS

Claims 11-12 and 14-19 are presently pending in the above-identified patent application. No claim is allowed.

Claims 11, 12, 14, 15, and 17-18 have been rejected pursuant to 35 U.S.C. §103(a) as unpatentably obvious over Hawley, in view of Jain et al. and further in view of Gangopadhyay. Claim 19 has been rejected pursuant to 35 U.S.C. §103(a) as unpatentably obvious over Hawley, in view of Jain et al. and further in view of Gangopadhyay, and further in view of Forouhi.

Because the examiner has repeatedly merely restated the same legally-incorrect arguments to support the rejections of the pending claims, the entire remarks made in the most recent response to the rejections are incorporated by reference as though fully set forth herein.

In addition, filed herewith is a Supplemental Declaration of Frank Hawley. The Supplemental Declaration of Frank Hawley establishes that the Gangopadhyay reference is non-enabling because it is inoperative. The law is well settled that an inoperative reference is non-enabling and may therefore not be used as prior art in any rejection under §102 or §103.

More particularly, the Supplemental Declaration of Frank Hawley establishes that he has personal knowledge concerning fabricating the devices disclosed in the Gangopadhyay reference and that those devices do not work and are thus inoperative because, contrary to the factually-incorrect recitations in the Gangopadhyay reference, the devices do not adhere to the substrates on which they are fabricated.

Applicants believe that the above-identified application is now in condition for allowance and such action is respectfully requested.

If the Examiner has any questions regarding this application or this response, the Examiner is requested to telephone the undersigned at 775-586-9500.

Respectfully submitted,
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